

January 31, 2017

The Honorable Bob Goodlatte Chairman Committee on the Judiciary U.S. House of Representatives Washington, DC 20515 The Honorable John Conyers Ranking Member Committee on the Judiciary U.S. House of Representatives Washington, DC 20515

RE: Reform of the United States Copyright Office

Dear Chairman Goodlatte and Ranking Member Conyers:

ACT | The App Association thanks Chairman Goodlatte, Ranking Member Conyers, and the Members of the Committee for the Committee's extensive review of the Copyright Act and the opportunity to provide comments on the Copyright Office modernization proposals. The App Association agrees that the 20<sup>th</sup> century statutory framework for the U.S. Copyright Office is not sufficient to meet the needs of a modern 21<sup>st</sup> century copyright system and that the Committee's recently-released proposal, Reform of the U.S. Copyright Office, is an appropriate starting point in a reform process.

The App Association represents more than 5,000 app companies and software firms creating and licensing digital content. The App Association is widely recognized as the foremost authority on the \$120 billion mobile app economy and its intersection with public policy. For our member companies, the creation of intellectual property is a critical part of their success and that of the industry as a whole. App developers rely on strong intellectual property protections to protect their content and to provide clear guidelines on the legal use of intellectual property owned by others.

The current structure of the Copyright Office does not have the capability to provide app developers with meaningful incentives to register apps. This negatively impacts the ability of this industry to avail itself of the statutory protections of the Copyright Act and the services of the Copyright Office. The Committee's proposal offers potentially high impact changes that could result in greater use of the Copyright Office by app developers, benefiting not only app developers and the app industry, but consumers as well. The App Association looks forward to working with the Committee on these proposals.









## The Register of Copyrights and Copyright Office Structure

The App Association strongly supports the Committee's proposal to require the addition of several positions to advise the Register including a chief economist, chief technologist, and a deputy register. Copyright protection provided by the Copyright Act provides a critical foundation to the success of developers and the industry as a whole. However, the outdated registration and recordation procedures, as well as related technological supports, offer little incentive for app developers to register apps. The addition of these positions would provide the Copyright Office with the skills necessary to understand the needs of technology industries and assist in developing updated procedures to increase their participation in registering works. This would greatly enhance the ability of the Copyright Office to meet one of its primary purposes, to register and record protected works.

The Copyright Office must function as an autonomous agency, providing Congress and other branches of government with expert advice on copyright policy. The App Association supports giving the Copyright Office autonomy over its budget and technology needs, with congressional oversight. This will allow for greater flexibility to meet the needs of customers and the public.

We take no position regarding where to locate the Copyright Office at this time, though it is important that wherever it is placed it maintains its ability to provide independent recommendations to Congress on copyright policy.

## Copyright Office Advisory Committees

The App Association supports the creation of ad-hoc advisory committees to advise the Register on critical issues. Although the Copyright Office already engages in outreach efforts to stakeholders through various processes like roundtables and listening sessions, ad-hoc committees would provide another method to ensure the Office is hearing from a wide range of views and interests. As content creation and distribution methods evolve, these committees provide a necessary flexibility to respond quickly to issues in order to develop comprehensive policy recommendations.

At this time, we do not take a position on whether permanent committees should be statutorily created. We look forward to working with the Committee on this proposal.

## Information Technology Upgrades

The App Association supports the Committee's goals with respect to the proposals on information technology upgrades. The Copyright Office should have the autonomy to implement its IT modernization plan and to determine the most effective use of the data center it is building.

While we support the goal of creating mechanisms to assist in the identification of ownership rights and licensing information, it may best be accomplished by encouraging private solutions at this time. Finding rights holders and obtaining licenses are challenges faced by app developers who often wish to license music, movies, and software in developing their own product or service. However, it is also the experience of the industry that private solutions to technological problems are better able to expeditiously meet the needs of creators, rights holders, and users.

We also support giving the Copyright Office the authority to build up reserve accounts and offer additional fee-for-service options. This forward-thinking measure will enable the Office to implement continually necessary upgrades in order to be responsive to new issues.

## **Small Claims**

The App Association supports the establishment of a small claims system. With updated registration and recordation procedures, we expect that participation by app developers would increase. App piracy is a significant issue for the app industry. Although most app developers are small businesses, the economic loses from infringement run the range from low- to high-value. A small claims system would recognize the changing landscape of content creation and distribution and offer a meaningful resolution option to 21st century creators.

The App Association appreciates the opportunity to submit initial comments to the Committee on the Copyright Office reform proposals. We look forward to working with the Committee as it considers these proposals and develops legislation.

Sincerely,

Morgan Reed

Executive Director

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